

REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.111 and in light of the remarks which follow, are respectfully requested.

By the above amendments, claims 1-5, 8, 15, 21 and 22 have been canceled without prejudice or disclaimer. Claim 6 has been amended to be in independent form. Claim 6 has also been amended to recite that the binding layer is formed from a binder comprising a polyolefin grafted with an unsaturated alkoxy silane, wherein said grafted polyolefin is blended with a non-grafted polyolefin; and a paper or paperboard bulk layer. Claim 6 has further been amended to recite that the binding layer is arranged to be in direct contact with the silicon oxide and the paper or paperboard bulk layer, and to bond the silicon oxide to the paper or paperboard bulk layer. Support for this amendment can be found in the instant specification at least at page 11, lines 18-26, taken in connection with Figure 1.

Claims 6, 9, 11 and 12 have been amended for readability and/or clarification purposes. Claims 14 and 16 have been amended to depend from claim 9. Support for newly added dependent claims 28-30 can be found in the specification at least at page 7, lines 10-12. Newly added dependent claim 31 is directed to subject matter deleted from claim 12.

In the Official Action, claims 6-8, 13, 20 and 23-27 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claims 1-29 of copending Application No. 10/564,992. Claims 6-8, 13, 20 and 23-27 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claims 1-29 of copending Application No. 11/123,122. Claims 6-8, 13, 20 and 23-27 stand rejected under the judicially created doctrine of

obviousness-type double patenting as being obvious over claims 1-17 of U.S. Patent No. 7,122,234 (the '234 patent) in view of U.S. Patent No. 4,632,959 (*Nagano*).

Without addressing the propriety of the Examiner's comments in connection with the above obviousness type double patenting rejections, submitted herewith is a Terminal Disclaimer over the '992 and '122 applications, as well as a Terminal Disclaimer over the '234 patent. Accordingly, withdrawal of the above obviousness double-patenting rejections is respectfully requested.

It is noted that the objection to the claims is moot in light of the above amendments, in which claim 6 has been amended to be in independent form.

Claims 9-12, 14-19, 25 and 26 stand rejected under 35 U.S.C. §112, second paragraph, for the reasons set forth at page 6 of the Official Action. This rejection is moot in light of the above amendments, in which (1) claim 9 has been amended to recite that the packaging laminate "further" comprises the layers recited in such claim, (2) claim 6 has been amended to recite the term "the paper or paperboard bulk layer", and (3) claims 14 and 16 have been amended to depend from claim 9. As such, withdrawal of the §112, second paragraph, rejection is respectfully requested.

Claims 6-8, 13, 20 and 23-27 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 7,122,234. Without addressing the propriety of the Examiner's comments in connection with this rejection, submitted herewith for the Examiner's consideration is a Statement Under 35 U.S.C. §103(c) with respect to the '234 patent. The submission of such Statement is effective to remove the '234 patent from qualifying as §102(e) prior art in the present §103(a) rejection. It is also noted that since the February 11, 2004 international filing date of the present application predates the July 22, 2004 publication

date of US 2004/0142182 listed in the "Prior Publication Data" section of the '234 patent, the '182 publication does not qualify as §102(a) prior art with respect to the present application.

Accordingly, for at least the above reasons, withdrawal of the obviousness rejection based on the '234 patent is respectfully requested.

Claims 6-8, 13-20, 23, 24 and 27 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,731,092 (*Breant et al*) in view of U.S. Patent No. 4,632,959 (*Nagano*). Claims 9-12, 25 and 26 stand rejected under 35 U.S.C. §103(a) as being obvious over *Breant et al* in view of *Nagano*, and further in view of U.S. Patent Application Publication No. 2002/0176974 (*Hanyu et al*). Withdrawal of these rejections is respectfully requested for at least the following reasons.

Independent claim 6 has been amended in the manner discussed above. Such claim is now directed to a packaging laminate comprising a film covered with silicon oxide; a binding layer formed from a binder comprising a polyolefin grafted with an unsaturated alkoxy silane, wherein said grafted polyolefin is blended with a non-grafted polyolefin; and a paper or paperboard bulk layer, wherein the binding layer is arranged to be in direct contact with the silicon oxide and the paper or paperboard bulk layer, and to bond the silicon oxide to the paper or paperboard bulk layer.

Breant et al relates to a packaging material comprising a silicon oxide layer and a polyolefin layer. *Breant et al* discloses a structure comprising a film covered with silicon oxide and a polyolefin film, an adhesive binder being arranged between the silicon oxide and the polyolefin film. This material can be hot-bonded to cardboard, and each face of the combined unit can be covered with a polyethylene sheet. Col. 1, lines 6-14.

Breant et al does not disclose or suggest each feature recited in independent claim 6. For example, *Breant et al* does not disclose or suggest a packaging laminate comprising, *inter*

alia, a binding layer formed from a binder comprising a polyolefin grafted with an unsaturated alkoxy silane, wherein said grafted polyolefin is blended with a non-grafted polyolefin, **wherein the binding layer is arranged to be in direct contact with the silicon oxide and the paper or paperboard bulk layer, and to bond the silicon oxide to the paper or paperboard bulk layer**, as recited in claim 6. In this regard, *Breant et al* does disclose an adhesive binder being arranged between silicon oxide and a polyolefin film. Col. 1, lines 8-11. However, *Breant et al* provides no disclosure or suggestion that the adhesive binder is **in direct contact with a paper or paperboard bulk layer**. Furthermore, since *Breant et al* is concerned with improving adhesion between silicon oxide and a polyolefin film, it is clear that one of ordinary skill in the art would not have been motivated to modify *Breant et al* by replacing either the silicon oxide or the polyolefin film with a paper or paperboard bulk layer.

Nagano and *Hanyu et al* fail to cure the above-described deficiencies of *Breant et al*. In this regard, the Patent Office has relied on *Nagano* for disclosing blending a modified or grafted polyolefin with a non-grafted polyethylene to improve adhesion of such polyolefins to polar materials. Official Action at page 10. In addition, *Hanyu et al* has been relied on for disclosing the use of a metallocene catalyzed copolymer. Official Action at page 11. However, like *Breant et al*, the secondary applied documents fail to disclose or suggest a binding layer that is arranged to be in direct contact with the silicon oxide and the paper or paperboard bulk layer, and to bond the silicon oxide to the paper or paperboard bulk layer, as recited in claim 6.

For at least the above reasons, it is apparent that independent claim 6 is not obvious over *Breant et al*, *Nagano* and *Hanyu et al*. Accordingly, withdrawal of the above §103(a) rejections is respectfully requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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